

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

JESUS COLON, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 GANNETT COMPANY, INC., a Delaware ) C.A. No. N10C-04-007 MMJ  
 corporation, t/a THE NEWS JOURNAL, )  
 )  
 Defendant/Third )  
 Party Plaintiff, )  
 )  
 v. )  
 )  
 VALNIQUE JOHNSON and KEITH )  
 WALKER, )  
 )  
 Third Party Defendants. )  
 )

Submitted: July 31, 2012

Decided: September 13, 2012

On Plaintiff's Motion for Reargument and/or Reconsideration  
of the Court's Rulings on Defendant Gannett's  
Motion for Summary Judgment  
and Plaintiff's Stipulation as to Certain Facts

**DENIED**

**ORDER**

Philip M. Finestrauss, Esquire, Wilmington, Delaware, Attorney for Plaintiff

Louis J. Rizzo, Jr., Esquire, Reger Rizzo & Darnall LLP, Wilmington, Delaware,  
Attorney for Defendant/Third-Party Plaintiff

**JOHNSTON, J.**

1. By Opinion dated July 26, 2012, the Court granted Defendant Gannett Company, Inc.'s Motion for Summary Judgment. The Court found that a genuine issue of material fact exists as to whether the inherently dangerous work exception to the independent contractor defense is applicable. Specifically, the Court found that a question of fact arises as to whether selling newspapers as a street hawker presents a special danger or peculiar risk, such that special precautions are necessary.

2. Plaintiff filed a Motion for Reargument and/or Reconsideration of the Court's Rulings on Defendant Gannett's Motion for Summary Judgment and Plaintiff's Stipulation as to Certain Facts. Plaintiff argues that the inherently dangerous work exception to the independent contractor defense is inapplicable. Plaintiff further stipulated that selling newspapers as a street hawker does not present a special danger or peculiar risk, such that special precautions are necessary. Plaintiff requests that the Court revise its ruling by denying Gannett's Motion based up the illegal activity exception to the independent contractor defense.

3. The purpose of reargument is to permit reconsideration of findings of fact, conclusions of law, or judgments of law.<sup>1</sup> Reargument usually will be denied

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<sup>1</sup>*Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del.1969).

unless the moving party demonstrates that the Court overlooked a precedent or legal principle that would have a controlling effect, or that it has misapprehended the law or the facts in a manner affecting the outcome of the decision. “A motion for reargument should not be used merely to rehash the arguments already decided by the court.”<sup>2</sup>

4. Plaintiff has failed to demonstrate that the Court overlooked a precedent or legal principle that would have a controlling effect, or that it misapprehended the law or the facts in a manner affecting the outcome of the decision. During deliberation on the summary judgment motion, the Court considered all of the issues presently raised by Plaintiff in the reargument and reconsideration motion.

**THEREFORE**, Plaintiff’s Motion for Reargument and/or Reconsideration of the Court’s Rulings on Defendant Gannett’s Motion for Summary Judgment and Plaintiff’s Stipulation as to Certain Facts is hereby **DENIED**.

**IT IS SO ORDERED.**

/s/ *Mary M Johnston* \_\_\_\_\_

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<sup>2</sup>*Wilmington Trust Co. v. Nix*, 2002 WL 356371 (Del Super.); *Whitsett v. Capital School District*, Del. Super., C.A. No. 97C-04-032, Vaughn, J. (Jan. 28, 1999); *Monsanto Co. v. Aetna Casualty & Surety Co.*, Del. Super., C.A. No. 88-JA-118, Ridgeley, P.J. (Jan. 14, 1994).

The Honorable Mary M. Johnston